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## Biomedical Money: Confusion as Congress Ends

As the 96th Congress muddled its way toward adjournment last week, the appropriations bill for medical research was so remote from passage that the legislators resolved to fall back on the easy out of simply extending the present spending authority. Atop the Carter Administration's numerous budgetary twists and turns during 1980, the Congressional maneuver defies quick analysis in regard to what effect it will have on the National Institutes of Health and the thousands of extramural projects it supports. What is sure, of course, is that the normally glutinous grant and contract process will not be accelerated by the monumental confusion that now reigns in Washington budgetary affairs. And yet to manifest itself is the Reagan Administration's apparently fierce determination to demonstrate that it can

### *Slaughter Sworn In As Director of NSF—Page 6*

outdo the proudly parsimonious Carterites in pinching pennies.

Although the House completed work on most of its appropriations measures for fiscal 1981, the Senate fell behind on a number of appropriations bills, including one for the Department of Labor and the Department of Health and Human Services. The latter included more than \$3 billion for biomedical research in the National Institutes of Health, which provides, by far, the largest chunk of research support for universities.

As a result of the Senate's failure to pass the measure, the two bodies were expected to pass a continuing resolution—Congress's second so far this fiscal

year—to extend spending authority for all federal programs that did not receive their appropriations by adjournment.

Looking back on the final months of the session, Senate aides said there were several reasons why the health spending measure never even got out of subcommittee. Not the least of them was the fact that Senator Warren G. Magnuson, Chairman of the full Appropriations Committee and its subcommittee for NIH and several other major agencies, was defeated in his bid for re-election, and then more or less dropped out of Senatorial affairs.

As time began to run out, Democratic supporters of NIH became genuinely concerned about Republican threats of an anti-spending filibuster. Once it became clear that a temporary spending measure would have to be passed, conservative Republicans tried to attach a civil-rights rider that would have banned busing as a means of achieving racial desegregation in the nation's schools.

While liberals were making their last stand on the civil-rights issue, President Carter joined in the fight, *(Continued on page 2)*

## In Brief

The six-member Reagan transition team assigned to look in on the National Science Foundation consists mainly of such establishment mandarins as former NSF Director Guy Stever and ex-Academy President Frederick Seitz. But there was a surprise, too: George Archibald, who, as an aide to right-wing former Rep. John B. Conlon (R-Ariz.), terrorized NSF in 1975 about allegedly unwholesome material in social science educational materials resulting from NSF curriculum studies.

The appointment of Senator Richard S. Schweiker (R-Pa.) as Secretary of Health and Human Services is little doubted, though not yet announced. One clue is that the HHS transition team consists mainly of Schweiker aides from his Senate office staff and the Health and Scientific Research Subcommittee, on which he was the top Republican.

Schweiker, incidentally, is a biomedical research booster, and is the champion of the diabetes branch of Capitol Hill's "disease of the month club."

Apparently under strict orders from Ronald Reagan, the transition teams have been meticulously courteous and cooperative. "They couldn't be nicer," said one HHS official.

## It's "Magnuson Center"

The clinical center at the National Institutes of Health is to be renamed the Warren Grant Magnuson Clinical Center in honor of the Washington State Senator who, for over 40 years, was a leading champion of federal support for biomedical research.

Congressional action in behalf of the naming was easily adopted in the waning hours of the 96th Congress, and no hitch is expected in obtaining presidential approval.

Magnuson, who was defeated for re-election, sponsored the 1937 legislation that created the National Cancer Institute, which was the first institute of what eventually became NIH.

## ...NIH Funding Slips Behind Inflation

(Continued from page 1)

threatening to veto any bill containing anti-busing legislation.

As it stood at the time of this writing, the temporary resolution, which would extend funding through June 5, would provide the NIH with support at the \$3.62-billion figure passed by the House last August. This figure is about \$187 million over the 1980 budget—which works out to an inflationary loss. Because the Senate failed to go through the normal budget cycle and specify actual amounts for each institute, it agreed to a continuing resolution based on the amounts and limitations contained in the House bill. This is a stopgap measure, with the Senate due to have another go at it when Congress returns in January. By then, of course, it will also be struggling with the 1982 budget—a lame duck spending plan that Carter will bequeath to Reagan.

### NSF, EPA, NASA

Meanwhile, for the National Science Foundation, Congress finally agreed to exceed the billion-dollar mark—a goal that was tantalizingly near in last year's appropriation. The \$1.076 billion measure, which was finally cleared for the White House, would raise NSF's total budget more than \$2 million above the level requested by President Carter last January. The bulk of

the Foundation's funds, nearly \$988 million, were earmarked for research and related activities, while \$83.2 million would be set aside for science education programs.

One of the most controversial aspects of NSF's fiscal 1981 budget was a directive to spend no less than \$30 million to expand research and science-education programs for women and minority groups. While some NSF officials complained that the funding levels were too low, others said that the requirements of the authorization bill were overly detailed and would be difficult for NSF to carry out.

Among other things, the bill requires the President to develop, with the help of NSF, a national policy to promote equal opportunities in science. The report is due January 20, two-and-a-half weeks after NSF is required to submit a separate report on the "direct and indirect impacts" of science and technology on women and minorities.

The NSF budget was included in a \$74-billion appropriations bill that also contained \$253 million for the Environmental Protection Agency, approximately \$53 million of which would go to colleges and universities, and \$5.5 billion for NASA, with universities receiving some \$174 million. The overall figure for NASA was

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## NATIONAL SCIENCE FOUNDATION FUNDING

	(in millions)			
	Fiscal 1980 Authorization	Fiscal 1980 Appropriation	Fiscal 1981 Authorization	Fiscal 1981 Appropriation
Mathematical and Physical Sciences <sup>1</sup>	\$ 293.4	\$227.2	\$ 259.8	\$ 259.8
Astronomical, Atmospheric Earth and Ocean Sciences <sup>1</sup>	241.5	218.5	237.1	235.8
U.S. Antarctic Program	55.0	55.8	64.2	64.5
Ocean Drilling Program	0.0	19.5	32.0	22.0
Biological, Behavioral and Social Sciences	170.0	167.1	182.0	177.9
Science Education	86.2	84.7	91.2	83.2
Engineering and Applied Science <sup>1</sup>	68.7	111.8	137.0	115.6
Scientific, Technological International Affairs	27.3	26.1	28.0	25.7
Cross Directorate Programs	0.0	22.5	33.2	28.7
Program Development and Management	59.6	57.2	60.0	57.8
Special Foreign Currency	6.0	5.5	5.5	5.0
Total, NSF	\$1,007.7	\$996.2	\$1,120.2	\$1,076.1 <sup>1</sup>

<sup>1</sup>NSF engineering programs included in MPS authorization before transfer to Applied Science Directorate.

<sup>1</sup>Includes authorization for Ocean Drilling Program.

<sup>1</sup>Entire HUD-independent agencies appropriation is subject to a 2 percent overall cut. The cuts cannot exceed 3 percent of any agency's budget and are to be made at the discretion of the Office of Management and Budget, with individual agencies deciding specific program cuts.

## ...NASA Overruns Draw Congressional Fire

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nearly \$24 million above the President's budget estimate—a fact that has irritated many Congressmen.

"For one reason or another," said Rep. Edward P. Boland (D-Mass.), Chairman of the appropriations subcommittee that handles NASA spending, the agency's program costs "are substantially exceeding their original cost estimates."

The Space Shuttle, for example, is at least \$2 billion over its original cost estimate. The Galileo program is as much as \$300 million above the budget request. And the space telescope is estimated to be between \$50 and \$100 million above the original cost set out in 1978.

Because Congress is not advised of the cost overruns until after the annual White House budget is prepared, Boland said, an "independent" review of NASA's cost overruns should be conducted by the National Academy of Sciences and the National Academy of Engineering.

"In essence," he said, "what we are trying to establish is a review of major NASA projects that get into serious problems."

The final 1981 budget for NSF, EPA, and NASA and two dozen other agencies financed under the HUD-Independent Agencies bill will be subject to an overall 2 per cent cut to be decided on by the Office of Management and Budget. Under the provisions of the measure, no program could be cut more than 3 per cent.

### Defense

Even with concern about the nation's defense running high, defense-related research programs did not do nearly as well as the Carter White House had hoped.

For overall basic research in the Defense Department, the Administration had requested \$643 million. Although the Senate approved \$585.8 million, the House voted only \$558.2 million. The compromise figure, sent to the White House shortly before the close of the session, was \$575.7.

That was particularly bad news for the research division at the Pentagon, which has been warning that reductions in the fiscal 1981 defense budget could interfere with ties that it has renewed with universities over the past four years.

In the late 1960's and early 1970's, defense spending

at universities fell sharply, largely because of campus opposition to the Vietnam War. In 1976, however, the Carter Administration began to rebuild support for university-based defense research. The Department's newly won "rapport" with universities could be undone, Arden Bement, Deputy Undersecretary of Defense for Research and Advanced Technology, warned at a Congressional hearing this fall. The reductions were expected to come mostly in new programs in biomedical and neurological research related to defense, as well as in laser and computer-science programs.

### Agriculture, Energy

The now-annual argument between the House and Senate over whether to channel Department of Agriculture research money into competitive grants or special projects designated by Congress left USDA's research effort roughly in the same place it was last year. Support under the competitive grant program in USDA's Science and Education Administration would be set at the same \$16-million level it received last year, despite the House's effort to cut off all funds for the program.

In last-minute action on the energy budget, the bulk of which was passed during the summer, the Congress voted to plan to continue a \$5 million coal-research program at 13 universities, but refused to provide funds for the creation of a university coal laboratory system, which had been authorized under the Surface Mining Reclamation Act of 1977.

Is all of this good news for American science? In the words of one Washington lobbyist, "It is good news and bad news."

"Things could have been worse in the past year but the prospects for the future are getting ever more bleak."

In a study released this fall, the National Science Foundation warned that, if the federal government fails to provide more help for universities, the effect will be a downward cycle of fewer jobs for scientists and lower enrollment in graduate research programs.

Echoing earlier warnings by university scientists, the

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## Universities Win Patent-Retention Struggle

Under the banner of higher industrial productivity, universities and small businesses have won a long battle to retain patent rights for discoveries made in the course of federally funded research.

The victory came as the lame duck Congress passed a bill, HR 6933, to amend the patent and trademark laws. The effect is to permit small companies, educational and nonprofit organizations to retain title to patents resulting from federal grants and contracts. This uniform government-wide policy will replace the present administrative chaos, which requires institutions to deal with 24 different patent policies throughout the federal establishment.

President Carter is certain to sign the legislation, which corresponds to a recommendation from last year's White House review of industrial innovation. The Administration was convinced by arguments that many federally funded inventions are never exploited because no company is willing to incur development and marketing costs without owning the patent, or at least without the protection of an exclusive license. The policy of most federal agencies has been to hold on to patents arising from their grants and contracts, and to let all comers exploit them on a nonexclusive basis.

The Senate made most of the early running on this issue (SGR Vol. X, No. 4). But later the House became more enthusiastic, voting for a more far-reaching reform of the patent laws than the Senate was willing to accept.

The original version of H.R. 6933, passed by the House on November 17, would have set up a two-tier patent system: universities and small businesses would have full title to their federally financed inventions, while big corporations would be given exclusive licenses to develop them for use in specific fields.

But the Senate amended the legislation to leave out big business. That was partly because its sponsors,

Senators Birch Bayh (D-Ind.) and Robert Dole (R-Kan.), thought the House's two-tier system would be cumbersome, and partly because they feared further opposition from Finance Committee Chairman Russell Long (D-La.). Long said he did not want to give away any of the government's patent rights, because he believes everyone should have free access to inventions made with taxpayers' money, but he was prepared to let the bill through if its benefits were restricted to universities and small firms.

The House accepted the Senate's deletion, rather than lose the bill altogether this session. But Reps. Robert Kastenmeier (D-Wis.) and Don Fuqua (D-Fla.) said the establishment of a uniform patent policy for other federal contractors would be "a high priority" next year.

Patent law could be controversial issue in the Senate next year, too. Staffers expect Sen. Harrison Schmitt (R-N.M.), who will become Chairman of the Science, Technology, and Space Subcommittee, to press for further liberalization. Schmitt wants to give big business not just exclusive licenses, like Kastenmeier and Fuqua, but full title, i.e., ownership of the patent.

Some federal agencies already operate fairly liberal patent policies. The Department of Health and Human Services and the National Science Foundation have drawn up agreements with scores of individual universities which allow the institutions to retain patent rights arising from their grants. But each agreement has to be worked out separately and the agency imposes certain conditions.

Most other agencies have insisted on treating each invention on its own merits. Universities had to devote a lot of time and effort to these negotiations, which sometimes ended in failure, with the government deciding to keep the patent itself. Niels Reimers, director of technology licensing at Stanford University, thought the new law would be particularly helpful in accelerating the transfer of new energy technology from university laboratories to the marketplace. The Energy Department has been extremely reluctant to release patent rights for processes developed through its research grants and contracts.

Former HEW patent counsel Norman Latker, who is now with the Small Business Administration, believed the reform will have an important psychological impact on the relationship between companies and universities. "In the past, it has not been clear to businesses what

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### **BUDGET** *(Continued from page 3)*

report noted that President Carter's proposed 9-percent increase in support for federal research and development will permit "little if any real growth in the early 80's."

Should basic research be included in President-elect Reagan's promised 2-per-cent cut in the budget, university laboratories are bound to suffer.

Some university spokesmen have said they believe that Reagan's strong ties to industry will turn him into a research booster. So far, however, the main political theme of the transition period points toward budget cuts.—Anne Roark

*(The author is an assistant editor of the Chronicle of Higher Education.)*

## SGR Holiday Schedule

The next issue of *Science & Government Report* will be published January 15, 1981.

## High-Tech "Dumping" Stirs 3d World Reaction

*The author, David Dickson, Washington correspondent of Nature, recently visited Penang, Malaysia.*

The public-interest tactics that spearheaded the consumer movement in the United States are being emulated in a number of Third World countries, and a major spark for the movement is the overseas dumping of high-technology products that the industrialized nations have deemed unsafe for their own people.

While the Carter Administration is now putting finishing touches on regulations designed to curb such exports, the odds are that the Reagan Administration is unlikely to be sympathetic to the notion of crimping export sales. The receiving countries, then, will have to look after themselves, which puts the spotlight on the little-noted, but potentially powerful, public-interest movement that's developed in some of them.

One of the largest groups concerned about these issues is the Consumer Association of Penang (CAP), established in the ex-British colony of Malaya over ten years ago, and now flourishing with a full-time staff of sixty. CAP's activities range from developing courses that warn school children about the potential hazards of consumer goods—such as insecticides or pharmaceuticals that have been taken off the US market, but are still available in Malaysia—to active crusading on environmental causes.

Many of CAP's activities are familiar to pressure groups in the industrialized world. The association puts

### **PATENTS** (Continued from page 4)

sort of rights universities had to their inventions, and this uncertainty often put them off approaching a university. In the future they can be sure the university holds title to an invention," he said.

"At the same time passage of the bill will sensitize universities to the fact that patenting an invention is worthwhile and helps the process of technology transfer," Latker said.

Latker said his HEW experience convinced him that an innovation was far more likely to be used if the university where it was discovered held the patent, rather than the government. Between 1968, when the Department started negotiating institutional patent agreements, and 1977, one-third of all patents retained by a university were developed into commercial products; altogether 75 were on the market, mostly drugs discovered with NIH support. "Before 1968," he said, "we couldn't find one example of an invention made with HEW support that had reached the marketplace."—Clive Cookson

(The author is Washington correspondent of the London *Times Higher Education Supplement*.)

### **Antitrust R&D Guide Issued**

Little initiatives continue to dribble out of Washington, inspired by last year's elephantine review of industrial innovation. The latest contribution comes from the Justice Department, in the form of "An Antitrust Guide Concerning Research Joint Ventures."

Assistant Attorney General Sanford Litvack, who runs the Department's antitrust division, said the 113-page document was part of an effort to dispel the view that the antitrust laws prevent companies from doing cooperative research.

The guide starts with a general discussion of the division's analytical approach to joint research, followed by eight hypothetical examples to show the most important and difficult situations. It is available for \$4.50 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

out a monthly newsletter listing recently identified consumer and occupational hazards—often taken from the US press. It contributes a weekly national newspaper column, and sends out almost daily press releases on new health or environmental threats. And over 2000 complaints a year are investigated by staff members.

More recently, the association has broadened its perspective to include broader question of economic policy. And a central issue has become the extent to which policies designed to maximize economic growth and Western patterns of technological development—through, for example, the heavy use of brand-name advertising to stimulate Western consumer habits—may be diverting attention from the more essential needs of the poorer sections of society.

"For a large proportion of our population, the basic consumer needs such as food, nutrition, health, sanitation and clean water supply have yet to be fully satisfied," says S.M. Mohammed Idris, a local businessman who is president of CAP and one of the most active members.

"Basic needs is an area of such crucial importance to consumers that CAP has made it a priority subject of our research and educational activities. We would like to suggest that the satisfaction of basic needs is the ultimate measure of the success of an economy, a measure which is in many ways superior to the traditional yardstick of Gross National Product or GNP."

Idris was speaking at a seminar held by CAP in Penang last month on "Economics, Development and  
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## ...The Case for "Need-Oriented" Growth

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the Consumer." The "basic needs" approach to development has become a popular one with aid agencies in the industrialized countries in the past few years, since it avoids the difficult question of whether foreign technical assistance is merely helping other countries become more competitive with US industry. It has been treated more skeptically by Third World governments, which claim that it addresses the symptoms, rather than the causes, of underdevelopment.

Yet as the world's supply of many raw materials begins to dwindle, countries such as Malaya which currently base their wealth on the export of natural commodities will soon be forced to re-examine their policies, says Idris. Malay's hardwood forests, for example, are currently being exploited at such a rate that CAP officials estimate they will have disappeared completely by the middle of the next decade. The official government line is that once the trees have been cleared from an area, the top-soil is so rapidly swept away by heavy rains that the fertility of the region is rapidly—and perhaps irretrievably—reduced.

"Development is genuine only if it is need-oriented, self-reliant and ecologically sound," says CAP's research director, Martin Khor Kok Peng, previously a lecturer in economics at the University of Malaya. He points out that, in addition to its environmental impact, the rapid depletion of the country's natural resources

will have serious implications on its income and balance of payments, currently relatively healthy because of high commodity prices for tin and petroleum.

Until recently, environmentalist causes have not found a large audience in most underdeveloped countries, partly because it has been argued that in strict cost-benefit terms, the potential benefits (and hence absorbable costs) of rapid industrialization are relatively greater in the West. But CAP is linking environmentalist language to a grass-roots campaign to save both the life-styles and livelihoods of local communities.

When a fishing village on the island of Penang, for example, found its source of income destroyed by the effluent from newly constructed chemical plants, CAP helped the villagers to organize and force the companies to build a discharge pipe taking the toxic wastes a mile out to sea. Fish did not return in their previous quantities; but the villagers were also encouraged to establish a now-flourishing shell-fish industry.

"Development should involve the spirit of self-reliance among the people, rather than dependence on charity or too much aid; it should take place in a manner that would not destroy or disturb the ecology and should take environmental considerations seriously into planning; it should also be derived from the feelings, cultures and desires of the citizens of the country, rather than being dictated by the ideas, technology or cultural

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### *Slaughter Sworn In as Science Foundation Director*

John B. Slaughter's glacial pace toward the directorship of the National Science Foundation took its final official step December 2 when he was sworn into the post by White House Science Adviser Frank Press.

But Slaughter, who was nominated for the job last July and confirmed by the Senate in September, then promptly returned to Pullman, Washington, where he is Vice President and Provost of Washington State University. Donald Langenberg, the NSF Deputy Director, then resumed the office of Acting Director, a post that he's held for six months, with time out for the brief period that Slaughter was on board following the swearing-in ceremony.

Meanwhile, back at NSF headquarters, the word from the top echelon is that Slaughter will finally arrive to take up his duties "sometime in January, but we don't know when."

While all this is something of a departure from past procedures in NSF's 30-year history, the fact is that Slaughter initially turned down the appointment, and finally accepted it only after President Carter personally

urged him to—and then it was with the clear understanding that he would not leave Pullman until around the end of this year. He explained, when he had not yet accepted the directorship appointment, that he was committed to complete major administrative tasks at Washington State, and that his acceptance necessarily entailed a long-delayed arrival in Washington, D.C. With that understanding, the offer was renewed and he accepted.

The December 2 swearing-in came earlier than Slaughter had originally intended, since he didn't want to take that last final step into the directorship while he was still carrying out official duties at Washington State. However, the uncertain atmosphere of the presidential transition period led some members of the National Science Board, NSF's policymaking body, to conclude that the matter should be settled quickly. Slaughter then consulted with several of Mr. Reagan's science advisers (SGR Vol. X, No. 20), and upon being told that his appointment was acceptable to the incoming Administration, agreed to be sworn in.

## ...Lure and Danger in Western Factory Jobs

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values of others," says Martin Khok in a paper delivered to the CAP seminar, summing up an alternative view of development that is being increasingly heard from Third World pressure groups.

Western economists tend to look skeptically on such arguments, with institutions such as the World Bank continuing to stick to the conventional wisdom that the more capital investment—regardless of its source—and the greater the supply of technical assistance that can be encouraged, the faster the whole population will benefit from a "trickle-down" of economic wealth. Dissidents such as Khok emphasize the price that is paid in terms of an increasing dependency on outside interests which dominate international relations in trade, investment and technology.

Malaya, for example, has, like many South-East Asian countries, made a strong effort to persuade Western semiconductor companies to situate component assembly plants in its duty free zones. The low wages paid to the women who work in these plants—often no more than a few dollars a day—have in the West become a focus for criticism of the multinational companies which employ them. In Malaya, where even this wage is considered relatively good, and often no other form of employment exists, the greater concern is that the companies contribute almost no taxes to the country's economy, and are likely to relocate elsewhere if they feel the environment becoming too hostile, leaving a gap that would be difficult to fill.

"Malays should be developing skills in its work-force which are stable and long-term, not short-term and specific to vulnerable industries such as microelectronics" Jamilah Ariffin, an economist with the National University of Malaysia, told the CAP seminar. "The implication is that our development should be less dependent on foreign capital, and concentrate on building up technologies appropriate to our resources and need."

Although CAP operates on the fringes of legitimacy—voluntary societies, such as labor unions, must have their activities officially approved, and risk being de-registered if they become too powerful—the association has several supporters in government circles. One is Malaya's Finance Minister, Tunjku Razaleigh Hamzah, who sees CAP's role in consumer education as a useful tool for helping to fight the country's growing inflation.

"The consumer association could be the watch-dog of the people, keeping under surveillance unfair practices of businessmen not only in regard to prices but also the quality and nature of goods sold to consumers," the minister said in an opening address to last month's seminar. And he called upon the universities to help

consumer groups in their efforts, arguing that "the gains that have been made in the nation's economic progress should be protected and expanded."

Although welcoming such support, some CAP officials are also wary of its implications. Much of what they do is explicitly critical of government policies. For example, when the government officially recognized the need for action to protect the environment, it did so by expanding the portfolio of the Ministry of Science and Technology to include environmental affairs, which critics claim is equivalent to expecting a poacher to play gamekeeper as well. Similarly government officials defend the slowness with which they have been implementing clean air laws on the grounds that these must not be too disruptive to the country's economic efforts.

Compared to most other countries in South East Asia, Malaya's politics are relatively liberal—one of the reasons that CAP can go as far as it does. But opportunities for conventional forms of political opposition are still limited. The country has over 1000 political prisoners, and labor unions must seek official approval for any action, from recruitment to strikes. In such a climate, the politics of consumerism offers a channel for action that might be stopped if expressed in other directions. As Anwar Fazal, one of CAP's founding members, and currently President of the International Organization of Consumer Unions, has put it: "It is a way for people to express their views in Malaysia without being hit on the head; and it gets results."

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## IRS Rule Favors Non-Profit Tax Status

The long-rumored crackdown by the Internal Revenue Service on tax-exempt scientific and educational societies now seems to be fading away. Indeed, recent news that the American Chemical Society (ACS) can keep its tax status as an educational society was greeted as a major victory by many of the nation's tax-exempt organizations.

ACS was one of six scientific associations whose tax-exempt status was challenged by IRS agents in New York and Washington during the past two years. But the society is now one of four associations to have the challenge reversed at the highest levels of the tax service.

Earlier this year, the national office of the IRS reaffirmed the non-profit status of two New York-based scientific organizations, the American Institute of Physics and the American Institute of Chemical Engineers. Late last year, the IRS's North Atlantic regional office, in Manhattan, issued a ruling reaffirming the status of the American Physical Society, after the lower-ranking New York district office of IRS said it should be reversed.

Only two cases are yet to be resolved, involving the American Society of Mechanical Engineers and the American Society of Civil Engineers.

At issue in all six cases is whether the organizations have been carrying out commercial activities not allowed under regulations governing the taxability and privileges of non-profit groups. The activities have included such common practices as selling identification badges and providing special services to members at lower rates than to non-members.

Most educational and scientific groups traditionally have been classified under 501 (c) (3) of the Internal Revenue Code, while businesses and professional leagues are classified under 501 (c) (6). It would be a good deal more than a mere technicality for the science groups to forfeit their "educational" status. In many cases, it could have serious financial consequences, including the loss of special postal discounts and the right to accept tax-deductible contributions.

In the case of ACS, local IRS agents had objected to the society's practice of selling magazine subscriptions at lower rates to members than to non-members. The discounts from those subscriptions, the agents argued, were providing unfair advantage for individuals who were members of the Society.

In a technical memorandum issued last month to the Baltimore office, the national office disagreed that the discounts "inured" to the benefit of individual members of the Society. Members benefit only as they join in the educational activities of the Society, which is allowable under the 501 (c) (3), the IRS said.

Moreover, the IRS added, the various magazine rates were not contrary to tax regulations, since all chemists had equal access to the preferred rates. This is surely good news for all educational and scientific groups that carry out similar activities, although each of the cases has been decided on rather narrow grounds that may or may not be applicable.

What is particularly unclear is how far the IRS will let the societies go in their commercial ventures. One case, now pending before a federal court, may go a long way toward clearing up some of the misunderstanding.

That case involves the Society of Mechanical Engineers, which supposedly violated the regulations governing 501 (c) (3) societies by selling such items as jewelry and identification badges to its members.

Because the sales of the items make up an insignificant portion of its overall budget, the Society contends that the activities do not interfere in any way with its educational mission. The IRS national office, however, has refused to hear the case, thus forcing the Society to take its defense to court.

What the court says could have significance for all non-profit groups. In the meantime, lawyers for some of the scientific associations have admitted privately that they are encouraging their clients to curtail some of their most questionable commercial ventures—or at least not advertise them.

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